

**115 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-404-2022

Date of Decision: 3.3.2022

Nihal Singh

..... Petitioner

Versus

Smt. Ramrati and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sumit Sangwan, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

The petitioner has filed the present revision petition impugning the order dated 20.1.2022, whereby the learned Additional Sessions Judge, Charkhi Dadri has dismissed the appeal filed by the petitioner and thus confirming the order dated 16.3.2021 passed by the learned JMIC, Charkhi Dadri directing to pay Rs.3 lacs in lumpsum for maintenance and compensation for the injuries including mental torture and emotional distress caused to the respondent-wife.

Learned counsel for the petitioner has contended that the marriage of the petitioner with the respondent-wife took place about 35 years ago. Out of this wedlock one daughter namely Anita was born. He has contended that the respondent-wife herself started residing separately with her sister and then after a gap of more than 30 years, she filed the petition under Section 125 Cr.P.C. for grant of maintenance. Thereafter, she filed application under Section 127 Cr.P.C. for enhancement of the same. He contends that the respondent-wife is living separately since the year 1986 and even on that account the petition filed by her was time barred. He submits that after the death of the brother of the petitioner Kirpal in the year 1986, he performed Karewa marriage with the widow of his

brother with the consent of respondent No.1. He submits that on that account respondent No.1 deserted the petitioner with her own sweet will and hence, she is not entitled for maintenance in view of the statutory provisions of Section 125 Cr.P.C. Learned counsel for the petitioner has relied upon the judgment of Madras High Court in Sivapugal vs. V. Meena and others, 2019(3) MadWN (Cri) 433. To buttress his arguments, he submits that both the Courts below have failed to appreciate the statutory provisions and judicial precedents and hence, drawn a wrong conclusion in granting the maintenance of Rs.3 lacs in lumpsum for maintenance and compensation.

Heard.

Admittedly, the relationship between the petitioner and respondent No.1 is not in dispute. The petitioner was not only married with respondent No.1 but they were blessed with a daughter also. From the records, it is apparent that the petitioner performed Karewa marriage with widow of his brother and thereafter, respondent No.1 alongwith her daughter was left at the mercy of her destiny. Respondent No.1 is a household lady without any source of income. Despite many Panchayats convened, the petitioner behaved with heartless attitude and discharged no responsibility towards both the deserted mother and daughter. After their desertion, respondent No.1 and her daughter started living separately in the same village. Respondent No.1 deposed before the Family Court that she was forced to live in a hut. The marriage of her daughter Anita was also performed by other persons, whereas, the petitioner did not help in any manner whatsoever. The Family Court appointed a Local Commissioner for verifying the plight of respondent-wife and it was confirmed that the respondent-wife was living in house located in the agricultural land, which was 2-3 Kms away from the village. On the perusal of the report of the Local Commissioner,

the petitioner was requested to provide a proper accommodation to the deserted wife but he refused to the same. It was further found that during the pendency of the proceedings under Section 125 Cr.P.C, the petitioner clandestinely transferred his land in favour of the son from his second wife. After appreciation of the complete facts and circumstances of the case, the Judicial Magistrate directed the petitioner to pay Rs.3 lacs in lumpsum for maintenance and compensation for the injuries including mental torture and emotional distress caused to the respondent-wife. The petitioner preferred appeal against the same and from the overwhelming evidence on record showing the conduct of the petitioner, the same was declined. Time and again the Hon'ble Supreme Court in plethora of judgments has reiterated the provisions of Section 125 Cr.P.C., which has been enacted in order to prevent the vagrancy and destitution. The petitioner has turned blind towards the plight of respondent No.1 and her daughter. Even if respondent No.1 had filed petition under Section 125 Cr.P.C. for grant of maintenance after more than 30 years, there is no merit in the argument of the petitioner that there is a delay on her part. The cause of action for maintenance is continuing and thus, the arguments regarding delay in filing the same is without any merit. The petitioner cannot wriggle out of his legal responsibility in maintaining the respondent-wife.

I find no infirmity in the view taken by both the Courts below, hence, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

3.3.2022
sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No